

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JACQAUS L. MARTIN,)
Plaintiff,) 8:06cv681
vs.) MEMORANDUM AND ORDER
NEBRASKA DEPARTMENT OF) (appeal)
CORRECTIONAL SERVICES, et al.,)
Defendants.)

This matter is before the court on filing no. 9, the Notice of Appeal filed by the plaintiff, JacQaus L. Martin, a prisoner who appeals filing nos. 7 and 8, the Memorandum and Order and accompanying Judgment, in which I dismissed Mr. Martin's complaint without prejudice. Also before the court is filing no. 10, the plaintiff's Motion for Leave to Proceed in Forma Pauperis ("IFP") on appeal.

The Motion for Leave to Proceed IFP on appeal is denied. The plaintiff is a prisoner subject to the "three-strikes" provision of the Prison Litigation Reform Act ("PLRA"). Therefore, he now becomes liable for the full appellate filing fees. 28 U.S.C. § 1915(g) states:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

As the "three strikes" provision applies to the plaintiff, and as this case does not meet any

exception, the plaintiff shall have until January 24, 2007, to pay the full \$455 appellate filing fees to the Clerk of the District Court. The Clerk of Court shall serve notice of this decision on the parties and the Eighth Circuit Court of Appeals and shall process this appeal to the Eighth Circuit.

SO ORDERED.

January 4, 2007.

BY THE COURT:

s/ *RICHARD G. KOPF*
United States District Judge